

CASE NO. CR 20-22-2805  
BY CW DEPUTY  
MAY 19 2023 PM 3:00  
CLERK OF DIST. CT., LATAH

Anne C. Taylor, Public Defender  
Kootenai County Public Defender  
PO Box 9000  
Coeur d'Alene, Idaho 83816  
Phone: (208) 446-1700; Fax: (208) 446-1701  
Bar Number: 5836  
iCourt Email: pdfax@kcgov.us

*Assigned Attorney:*  
Anne C. Taylor, Public Defender, Bar Number: 5836  
Jay W. Logsdon, Chief Deputy Public Defender, Bar Number: 8759  
Elisa G. Massoth, Bar Number: 5647

**IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF LATAH**

STATE OF IDAHO

**Plaintiff,**

V.

**BRYAN C. KOHBERGER,**

**Defendant.**

CASE NUMBER CR<sup>29</sup>28-22-2805

**MOTION TO MAKE AVAILABLE  
THE RECORD OF ALL PROCEEDINGS  
OF THE GRAND JURY PURSUANT TO  
I.C.R. 6.2**

COMES NOW, Bryan C. Kohberger, by and through his attorney, Anne C. Taylor, Public Defender, hereby moves the Court for an Order directing the Clerk of the Court to unseal the record and make it available to allow for examination, and to allow for the preparation of transcriptions of all of the proceedings conducted by the Grand Jury in the above-entitled matter, except for the deliberation portion of the proceedings.

Counsel specifically requests that the following be included in the record to be provided:

1. A copy of any and all Petitions for Summoning a Grand Jury related to this case or these charges.
2. A copy of any and all Order or Orders Assigning Judge related to this case or these charges.

3. A copy of any and all Order to Summons Jurors and Notice of Hearing.
4. A transcript of the initial seating of the Grand Jury, which ultimately heard evidence in the case against the Defendant. The transcript should include, but is not limited to, a list of all prospective jury pool, administration of the oath to prospective Grand Jurors, voir dire of prospective Grand Jurors by the prosecutor and the Court, and any questionnaires or instructions given to prospective Grand Jurors as well as a list of all persons present.
5. A verbatim transcript of the proceeding in which evidence against the Defendant was presented to the Grand Jury. In addition to a record of testimony presented to the Grand Jury, that transcript should include a record of comments of the Court and Prosecuting Attorney, and Deputy Prosecuting Attorneys to the Grand Jury, whether in opening statement or closing remarks or response to questions by the Grand Jury, and any questions submitted by the Grand Jury, whether oral or written, as well as a list of all persons present during to proceeding.
6. A copy of the Jury Instructions provided to the Grand Jurors who heard the evidence against the Defendant.
7. A list of the names of the Grand Jurors who heard the evidence against the Defendant.
8. A copy of any and all documents or records and a transcript of any and all proceedings containing information related to the following matters addressed in the relevant Idaho Criminal Rules provided below, if not otherwise already included in the record created above:
  - A. The number of Grand Jurors and presence of a quorum, per Idaho Criminal Rule 6(a);
  - B. The summoning of the Grand Jury, per Idaho Criminal Rule 6(b);
  - C. The impaneling of the Grand Jury, per Idaho Criminal Rule 6(c);

- D. The Grand Jury presiding juror, oath and duties, per Idaho Criminal Rule 6(d);
- E. The Deputy Presiding Juror, oath and duties, per Idaho Criminal Rule 6(e);
- F. The charge to the jury, per Idaho Criminal Rule 6(f);
- G. The excuse of any juror, per Idaho Criminal Rule 6(g);
- H. Any evidence presented to the Grand Jury, per Idaho Criminal Rule 6.1(b)(1);
- I. Any inquiry by the Prosecutor regarding whether there are any grounds for disqualification of any Grand Juror, per Idaho Criminal Rule 6.1(b)(2);
- J. Any list of elements of offenses provided by the Prosecutor, per Idaho Criminal Rule 6.1(b)(3);
- K. Any advice given by the Prosecutor regarding the standard for probable cause or person's refusal to testify, per Idaho Criminal Rule 6.1(b)(4);
- L. Any Grand Jury Subpoenas issued or served, per Idaho Criminal Rule 6.1(b)(5);
- M. Any opening statements or jury instructions on applicable law provided by the Prosecutor, whether oral or written, per Idaho Criminal Rule 6.1(b)(6);
- N. Any Indictment prepared by the prosecutor for consideration by the Grand Jury or at the request of the Grand Jury, per Idaho Criminal Rule 6.1(b)(7);
- O. All recorded proceedings in this case, per Idaho Criminal Rule 6.2(a);
- P. The presence of any and all persons at all times at the Grand Jury sessions in this case, and the permissions for such presence, per Idaho Criminal Rule 6.3(a);
- Q. Any Subpoena, and Subpoena Duces Tecum issued either by the Presiding Juror of the Prosecutor in this case, per Idaho Criminal Rule 6.4(a);
- R. Any questions asked of any witnesses, per Idaho Criminal Rule 6.4(b);
- S. Any evidence for the Defendant requested or ordered to be produced by the Grand Jury, per Idaho Criminal Rule 6.4(c);
- T. Any returned Indictment in this case, per Idaho Criminal Rule 6.3(d);
- U. A list of the vote of the Grand Jurors for each charge, per Idaho Criminal Rule 6.5(d) and 6.5(b);
- V. All documentation regarding a Return of No Bill pursuant to Idaho Criminal Rule 6.5(e);

- W. Any and all other information, documents, records or transcripts regarding the Grand Jurors or the Indictment subjecting them or it to challenge, per Idaho Criminal Rule 6.6; and
  - X. The term of service of the Grand Jury, per Idaho Criminal Rule 6.7
9. A copy of any and all documents or records and a transcript of any and all proceedings containing matters related to the relevant Idaho statutory provisions contained in Idaho Code Idaho Code §§19-1002-15, 1101-15, 1201-07, 1306-08, 1401-18, 1601, and any other relevant statutes.

This motion is based on the 5<sup>th</sup>, 6<sup>th</sup>, and 14<sup>th</sup> Amendments to the United States Constitution; Article 1, Sections 8 and 13 of the Idaho Constitution and enabling legislation enacting these guarantees. Furthermore, this motion is made on the grounds that the record of said proceeding is necessary for Counsel for the Defendant to prepare a defense in this matter.

Counsel for the Defendant further moves the Court to order that the costs necessary for the preparation and completion of the record be paid at County expense and at no expense to the defense. This request is made on the grounds that the Defendant was determined to be indigent, and his representation is provided by the Office of the Public Defender of Kootenai County.

Leave to present testimony and oral argument is hereby requested if the Court is not otherwise inclined to grant this motion. Requested hearing time is 10 minutes.

DATED this 19 day of May, 2023.

ANNE C. TAYLOR, PUBLIC DEFENDER  
KOOTENAI COUNTY PUBLIC DEFENDER



BY:

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ANNE TAYLOR  
PUBLIC DEFENDER  
ASSIGNED ATTORNEY

## CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was personally served as indicated below on the 19 day of May, 2023 addressed to:

Latah County Prosecuting Attorney –Via iCourt: [paservice@latahcountyid.gov](mailto:paservice@latahcountyid.gov)

Jeff Nye, Deputy Attorney General – via iCourt: [jeff.nye@ag.idaho.gov](mailto:jeff.nye@ag.idaho.gov)

Ingrid Batey, Deputy Attorney General – via iCourt: [ingrid.batey@ag.idaho.gov](mailto:ingrid.batey@ag.idaho.gov)

Elisa Massoth – via iCourt: [legalassistant@kmrs.net](mailto:legalassistant@kmrs.net)



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